

AMENDED IN SENATE AUGUST 24, 2009

AMENDED IN SENATE JULY 9, 2009

AMENDED IN SENATE JUNE 3, 2009

AMENDED IN SENATE MAY 21, 2009

AMENDED IN SENATE APRIL 27, 2009

SENATE BILL

No. 474

Introduced by Senator Ducheny

February 26, 2009

An act to add Section 14105.1 to the Government Code, relating to transportation, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 474, as amended, Ducheny. Transportation: pilot programs.

Existing law authorizes the Department of Transportation to do any act necessary, convenient, or proper for the construction, improvement, maintenance, or use of all highways which are under its jurisdiction. Existing law provides for the California Transportation Commission to program certain transportation funds for particular projects, and to report to the Legislature on various transportation policy matters. Existing law authorizes the department and certain local agencies to enter into agreements for transportation projects under pilot programs using public-private partnerships. Existing law authorizes certain transportation projects under pilot programs using design-build and design-sequencing contracting methods.

This bill would require the lead agency for a project, within 90 days after the award of a contract or entering into any agreement for a pilot

program involving an alternative contracting or financing method, to make a finding that the use of that method will provide specified benefits. The bill would require the California Transportation Commission to provide an annual consolidated report to the Legislature on the progress of and savings resulting from those pilot programs, as specified, based on input from the department and regional agencies. The bill would require the commission to develop the methodology for determining those savings benefits.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 14105.1 is added to the Government
2 Code, to read:
3 14105.1. (a) (1) Within 90 days after the award of a contract
4 or entering into any agreement for a pilot program involving an
5 alternative contracting or financing method identified in
6 subdivision (c), the lead agency for the project shall make a finding
7 that the use of the alternative method will provide any of the
8 following benefits to the public when compared to a traditional
9 contracting or financing method:
10 (A) Accelerates the project completion date.
11 (B) Produces savings in personnel or financial resources.
12 (C) Results in lower costs to the users of the facility developed
13 under the method.
14 (D) Brings financial resources to the project that would not
15 otherwise be available.
16 ~~(2) If a project is under joint control of the department and a~~
17 ~~local agency, both agencies shall concur in the finding before a~~
18 ~~contract may be awarded.~~
19 (2) *If the lead agency on a project is not the owner of the facility,*
20 *the owner of the facility shall concur in the finding.*
21 (3) The purpose of requiring the finding is solely to assist the
22 public and the Legislature in evaluating the effectiveness of the
23 alternative methods described in subdivision (c), subsequent to
24 award of a ~~commission-approved~~ contract involving an alternative
25 method, in order to determine the extent to which those alternative

1 methods may or may not be authorized for future pilot programs.
2 An agency that makes a finding as required and later determines
3 that the use of the alternative method was no more effective, or
4 less effective, than a traditional method for a project shall not be
5 liable to any person for making the decision to use the alternative
6 method.

7 (b) The commission, in cooperation with the department and
8 regional transportation agencies, shall develop the methodology
9 for determining whether a project will provide the benefits that
10 are identified in subdivision (a).

11 (c) (1) The commission shall, on an annual basis, provide a
12 consolidated report to the Legislature on the progress of the
13 following pilot programs:

14 (A) Public-private partnerships authorized pursuant to Section
15 143 of the Streets and Highways Code.

16 (B) Design-build authorized pursuant to Chapter 6.5
17 (commencing with Section 6800) of Part 1 of Division 2 of the
18 Public Contract Code.

19 (C) Design-sequencing authorized pursuant to Article 6.5
20 (commencing with Section 217) of Chapter 1 of Division 1 of the
21 Streets and Highways Code.

22 (2) The consolidated report shall include information on any
23 savings in time or resources to the lead agency or to users of the
24 resulting facility due to the pilot programs specified in this
25 subdivision, as well as the information required by Sections 143
26 and 217.8 of the Streets and Highways Code and Section 6811 of
27 the Public Contract Code.

28 (3) The consolidated report may be incorporated into the
29 commission's annual report to the Legislature as required by
30 Section 14535.

31 (d) (1) The department shall submit to the commission the
32 reports required by Section 217.8 of the Streets and Highways
33 Code for the purpose of preparation of the consolidated report.

34 (2) Upon request by the commission, any transportation agency
35 involved in one of the pilot programs specified in subdivision (c)
36 shall provide information deemed necessary by the commission
37 for the purpose of preparation of the consolidated report.

38 (e) It is the intent of the Legislature that agencies that seek to
39 utilize an alternative contracting or financing method justify the
40 use of that method by making a finding regarding the benefits that

1 the method is expected to yield for the public. It is further the intent
2 of the Legislature that agencies using such a method report on the
3 extent to which the method did in fact produce the expected
4 benefits.

5 SEC. 2. This act is an urgency statute necessary for the
6 immediate preservation of the public peace, health, or safety within
7 the meaning of Article IV of the Constitution and shall go into
8 immediate effect. The facts constituting the necessity are:

9 In order to require reporting for pilot programs, and findings for
10 pilot programs involving alternative contracting or financing, by
11 the California Transportation Commission at the earliest possible
12 time, it is necessary that this act take effect immediately.